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ABOLITION

OF THE

VICE-ROYALTY OF IRELAND.

A LETTER

TO

THE RIGHT HONOURABLE

SIR JAMES R. G. GRAHAM, BT., M.P.

(LATE SECRETARY OF STATE FOR THE HOME DEPARTMENT),

ON

THE BEST METHOD OF GIVING EFFECT

TO THAT MEASURE.

BY

LORD WHARNCLIFFE.

LONDON:

JAMES RIDGWAY, PICCADILLY.

1850.

A B O L I T I O N
OF THE
VICE-ROYALTY OF IRELAND.

MY DEAR SIR JAMES,

I KNOW no one to whom I can more fitly, and more hopefully, address, than to yourself, the few observations which I wish to make upon a subject of great national importance, intimately connected with those departments of Government over which you have heretofore so well presided, and about to be discussed in the House of Commons, of which you are so prominent and so distinguished a Member. The memorable ability with which you discharged the duties,—for some years, and in difficult times,—of that high office which was then, as now, supreme over the internal affairs of these United Kingdoms, is still fresh in my recollection; and is so well known to others, as amply to justify my selection of your name in treating of matters immediately relating to its constitution, of which your own experience enables you so effectually to judge. If I can awaken your interest in behalf of suggestions which appear to me to be well

worthy of consideration, I know how powerful will be the support which they will have gained : if I fail in recommending them to your judgment, and through your authority to that of the public, I shall feel that probably I have overrated their value, or that they must be left to abler hands to do them justice.

When some time since it was announced to be the intention of Her Majesty's Government to extinguish the actual and ancient form of separate government for Ireland, and to transfer its functions and its powers to this country, I felt, in common, I believe, with the great majority of the population of both kingdoms, that the time was now fully come for such a change, and that upon a variety of grounds it was reasonable, just, and politic that it should be made.

I do not now mean to swell the bulk of this letter (which I desire to keep within the smallest practicable limits,) by entering into any review or discussion of the arguments for that alteration. It has been proposed, apparently with the concurrence—I believe I might say with the approbation—of almost all classes on both sides of St. George's Channel ; and the abolition of the Vice-Royalty, and the general consolidation of the machinery of English and Irish Government may be assumed as a fact accomplished. But whatever may be the merits of the question as regards this fact itself, it is obvious that its consummation may be effected in more ways than one ; and it appears to me, that

the manner in which it is to be accomplished is a point of the most obvious importance, and must tend in a great degree to determine the amount of public advantage to be derived from it, either to Ireland or to England.

I have, therefore, from the first, looked with much anxiety to this part of the question ; entertaining a strong opinion that there were arrangements which might be made to give far greater value to the change than could be involved in the mere migration of the Irish Executive across the Channel ; and that the opportunity was one which should not be neglected, of carefully considering the possibility and expediency of such dispositions, and of rendering them auxiliary, not merely to the promotion of official, but of national interests. Holding such opinions, however, I nevertheless felt that I had no special or peculiar title to a voice in this matter ; and I was, therefore, reluctant to obtrude them upon the public, at any rate before I saw what were the conclusions at which the Government might have arrived. Even after its specific proposal had been made to Parliament, I deemed it becoming to wait, at least, to learn whether it might not be suggested by others better entitled to be heard upon the subject, that a more satisfactory and useful arrangement could be made ; and it is by considerations of this nature that I have been hitherto deterred from a step which, taken precipitately, might have savoured somewhat of pre-

sumption, but if delayed, would at least leave the field open to any weightier authority, and might thereby give the matter a better chance of successful acceptance—a point of infinitely greater moment to myself, as well as to all other parties concerned, than any gratification of individual vanity.

But the Bill for the abolition of the Lord-Lieutenancy is now before Parliament and the public. It was ordered by the House of Commons to be printed on the 17th of May; and as, up to the present middle of the month of June, I have perceived no movement for a modification of its plan; have heard no utterance of public opinion upon its details, beyond an almost unanimous assent to the expediency of such modification from all to whom it has been individually suggested; I trust I may now, without any possible charge of presumption, venture to lay before the public views which appear to me to be at least deserving of the deliberate and impartial consideration of all those interested in the subject.

To whom then could I with more propriety, and with more effect, address any such suggestions than to yourself; one of the leading members of that House of Commons, before which the Bill has been laid, and with which its discussion must in the first instance rest?

Without for the present entering into the formal provisions of the Bill itself, it will suffice, and will be more practically to the purpose, if we look to the

language of the first Minister of the Crown upon its introduction to Parliament, for an authentic exposition of its scope and design. The words of Lord John Russell on the 17th of May were these :

“ I propose that another Secretary of State should be added to the present three Secretaries of State for the purpose of carrying on the important business connected with Ireland. I will not say that the arrangements that may be made will be exactly the arrangement that subsists at present, because there may be some of the functions which are now exercised by the Lord-Lieutenant of Ireland which it may be more convenient should be exercised by the Secretary of State for a Home Department ; but I own, considering the immense amount of business connected with Ireland, and considering also the number of measures which it is necessary to prepare for the consideration of Parliament, respecting Ireland, I do not think it would be possible for the Secretary of State for the Home Department, charged as he is of late with many important duties which formerly did not belong to his office, efficiently to perform all the duties which are now performed by the Lord-Lieutenant and Chief Secretary for Ireland. I propose, therefore, that there should be a power of appointing a fourth Secretary of State ; not of course dividing his functions from those of the other Secretaries of State ; he would be charged with the affairs relating to Ireland ; but like the other Secretaries of State he would be capable of discharging any of the duties and functions belonging to a Secretary of State.”—*Times*, May 18, 1850.

It thus appears that whatever may be the technical form of the Bill, the intention is, that the offices of Lord-Lieutenant and Chief-Secretary, should be suppressed in Ireland ; that the whole business of their Departments should be transferred to that of a fourth Secretary of State and Under-Secretary in

London ; that these offices should have the sole and separate transaction of all Irish home business ; and briefly that whereas we have at present a Secretary of the Home Department for England and Scotland, we should henceforth have a similar but distinct and co-ordinate Secretary of the Home Department for Ireland also.

Nothing can be simpler,—I would rather venture to say, more elementary,—than this proposal. It lies upon the very surface of the whole question, and must be the first to suggest itself to any one either unwilling to bestow much thought upon it, or anxious to escape trouble. It is in point of fact a mere extinction of the Irish Executive, and a proportionate inflation of the Irish office in London. Any one,—a child,—might have conceived it,—the least possible adjustment will suffice to accomplish it. But is it the most judicious, and the most useful mode of effecting the change? This is the important question for Parliament to decide ; and I cannot help entertaining a strong persuasion, that in this proposal her Majesty's Government is committing a great and serious and durable error. Let me explain my reasons for so thinking.

The proximate inducement,—the immediate occasion,—of the abolition of the Irish Vice-Royalty and its appendages, is no doubt the marked and decisive revolution which has taken place in the circumstances of its position, political and social. It was justly observed by Lord John Russell, that the

plainest justification of such a step was to be found in the Railway Time Tables. The first flying steam-ship from Holyhead,—the first train that shot through the Britannia tube,—were the last feathers in the scale which has been gradually trembling more and more with the doom of a local Irish Government. But is the mere convenience of dispensing with that separate and distant machinery the only advantage which the change may be made to afford? Scarcely any one, I think, who has any knowledge on the subject, will be found to deny, that when once such an alteration has been rendered possible by the march of these improvements, its adoption must involve,—and the method of its consummation should be determined with reference to,—very different and far more important considerations.

I look upon the consolidation of Irish and English Governments, as an operation of the highest moment, and, I believe, of the greatest value and promise to both countries. It is a step in the gradual realization of that true and practical union which consists in an identification of nationality and of interests, and which has so often been pronounced, by the greatest of political authorities of various classes, to be the true end and aim of all wise legislation on the subject. If we withdraw the Irish Government from Ireland, and put an end to its separate local existence,—surely we should place its management as a portion of the *general* govern-

ment, not merely on a footing of equality, but on that of *identity*, with the executive for other parts of the United Kingdom. It is desirable as far as possible to promote a *fusion* of the national interests. It is not only convenient but advantageous that the same practised mind should be applied to the internal affairs of both England and Ireland;—that the functions of Government should, as far as circumstances admit, be exercised in both countries in the same spirit, and with the same views;—that the progress of improvement in the one should constantly operate to suggest its promotion in the other;—and that the assimilation of their laws should gradually proceed under the same eye and hand.

This condition of things has long existed with perfect facility and success of operation, between England and Scotland; and why should it not be as successful in respect of Ireland? The facilities should be greater, for the laws and institutions in the latter case are less different than in the former; while if the internal circumstances and habits of the country present no impediment in the one, there are many reasons for believing that they offer the strongest reasons for such a fusion in the other. Among the numerous objections which have been, at different times, and with different purposes, urged against the Irish Government, there is none more prominent than the statement that it has continually presented a kind of centre, or focus, for faction and

intrigue ;—that it offered constant opportunity and facilities for the attempt to pervert its authority and its favours to factious or to corrupt objects ;—and that however pure and honest might be the intentions of an Irish Lord-Lieutenant, it was impossible for him to avoid, or to extinguish, those attempts ;—and, indeed, scarcely in his power to escape their contamination. Such strictures have been at all times of frequent occurrence. No reference need be given to prove them. They are to be found, as the commentators say, “*passim*,”—and will rise at once to the recollection of every man who has given them a thought. But there is another fault which has been often, and apparently with justice, found with the presence of a local Irish Government ; and it is this—that it has tended to implant, and subsequently to foster continually in the Irish character, that disposition to rely in almost every possible case of difficulty on the direct interference of the Executive, rather than on the general and individual exertions and resources of the community itself,—which has exercised so baneful an influence in many respects on the interests of that country. It may be hoped, indeed, that one of the compensations to be derived from the disastrous history of the last few years in Ireland, is that they have to some extent effected an alteration of habits and views in this particular ; but there can be nothing of this kind alleged such as to supersede the utility of any arrangements which may tend in the

slightest degree to impart to the transaction of Irish business those habits of self-dependence, and subordinate energy, which characterise so largely the conduct of similar affairs in England.

If these then be admitted (as I think they will be) to be important objects, it is fair to inquire how far the proposal of the Government is likely to assist in their attainment. That proposal is to establish a fourth Secretary of State in England for the discharge of those duties which now belong to the Lord Lieutenant and the Chief Secretary in Ireland. The effect of this proposal must be, not only not to promote in the smallest degree the fusion of the two branches of the common National Government, but even to cause a more distinct and formal separation, At present the Secretary for the Home Department has the supreme superintendence of the Irish, as well as the English and Scotch, branches of the internal administration; and I believe you will confirm from your experience, the statement which I have frequently heard made by those who have been cognizant of the fact, that this is true, not only in form but in reality; and that the Lord Lieutenant is expected to be, and is, in constant communication with the Secretary of State; and confers with him on almost all important points of Government. How will it be under the proposed scheme? The new Secretary of State cannot of course be subordinate to the Home Department, with the chief of which he is on a par in respect of title, of authority,

and of position. He must be co-ordinate in all these with his colleague at the Home Office. He need refer to him upon nothing. He may pursue his own policy upon Irish affairs without any further reference to that of the rest of the internal administration, than is necessarily involved in his belonging to the same Cabinet; or than occurs with respect to the Colonial and Foreign Office. And wherefore this separation? Once shew that it would be in any way possible to arrange so as to entrust the conduct of Irish affairs, like others, to the Home Office, and no reason can be given for the continued, and indeed widened, separation, except that they are *Irish*; and that because heretofore, in consequence of bygone difficulties, it was found necessary to maintain for their conduct a separate machinery, that severance should be perversely maintained when the causes for it have expired. I cannot but flatter myself that you will agree with me in thinking, that this artificial, and I may say causeless disunion, is of the most pernicious tendency.

But it is so for no reason more, than that so long as the Irish Executive, whether here or in Ireland, is altogether confined to Irish affairs, and its office the sole resort of those interested in Irish business, it will continue to offer,—perhaps in some less degree, but still to offer,—the same attractive focus for interested applications, for unreasonable demands, and for partial representations, which has so often been described by those best

acquainted with the government of the sister island, as its worst attribute. The very changes, social and physical, which have rendered futile the maintenance of a separate Court in Ireland, make the communications to the east as easy as to the west, and will facilitate the intercourse of Ireland with London, in the same degree as they quicken that of London with Ireland. There can, therefore, be no reasonable ground for assuming that the Irish Government, transplanted to London, will very materially change its character; while it may be fairly concluded, that in many branches of internal administration—such as the distribution of the forces in times of disturbance—the disposal of convicts—and other such matters of regulation involving the public interests of the two countries jointly, a reference to two separate and independent offices, instead of to one primarily responsible for both, would not tend to simplify the operations of the Executive.

On every ground then,—social, political, or administrative, the policy which ought to guide us in arrangements for the common government of the two countries, is surely that of *fusion*;—of obliterating as far as possible the lingering traces of past disunion;—of proclaiming and realizing, not only equality, but unity, of rights and interests;—of freely promoting an interchange of improvements, and of progress, between the two sister countries, whether in their laws, their institutions, or their

social condition. I believe that I shall meet with few dissentients to such a proposition. But the measure before Parliament, so far from aiming at these results, rather makes a step in the opposite direction. It tends, on the contrary, to sever and dissociate ; and to perpetuate a distinction which there remains no difference to justify, except that the affairs so to be insulated are Irish, and not English or Scotch.

No doubt, under existing circumstances, there is a bar to the consolidation of Irish and British internal administration in the same office, which must be admitted to have some actual present weight,—although I hope to be able to shew how it may be advantageously removed ;—and which, in point of fact, seems to suggest the only plausible reason for the contemplated arrangement. The Home Office in London is already, if not overworked, at least fully employed ; and to impose upon it, in addition to its present duties, the direct discharge of those connected with the Government of Ireland, would be to overwhelm it. The force of this objection, such as it is, must be admitted ; and if the constitution and functions of that department were immutable, it would leave us scarcely any alternative but that of adopting the rude and inartificial contrivance of establishing a new and separate office here, to carry on the business which has been hitherto transacted in Dublin. But is this a fixed and unchangeable element in the question ? I would rather

ask might not the union of national interests be made to conspire with a positive and independent improvement in the dispositions of the Home Office itself? If this be so, it is worth while to look at the question in that light; and it is possible that we may find that the occasion affords an unusually favourable opportunity for the effectual union of imperial functions in respect of both countries; and at the same time of judicious severance of duties which, although by a gradual and inevitable process now vested in the same quarter, might more advantageously, as well as more conformably to the original usages of British Government, be placed in different hands.

The business of the Home Office as at present transacted, may, with reference to this question, be divided into two parts; consisting in the first place of that which concerns the general and political government of the kingdom; and in the second of that which, although of a more distinct and definite character, is not, it is believed, by any means the least arduous or onerous,—the superintendence of its judicial affairs, and of the administration of the law. Is it indispensable that these should be continued together in the same quarter?—Is it in accordance with ancient usage, or required by public convenience, that they should be so? In answer to the latter question, I believe that it is an ascertained, and even an acknowledged fact, that for the most part those functions of judicial superintend-

ence, which are in these days exercised by the Home Office, were in former times discharged by other officers of state, and that it is only by the gradual and increasing pressure of practical labour in another quarter that they have passed to that department. Formerly, as might be supposed, and as would seemingly be most natural, these duties appear to have been, as a matter of course, discharged by the chief law officer of the Government. But that chief law officer was also a judge. His once proper judicial burden increased of course with the growth of population and of wealth so rapidly as to leave little room for other occupation; and the result has been that the Lord Chancellor in our days has been compelled, not only to abandon most of such duties of superintendence to the Secretary of State, but to perform as he best might, and in many points but imperfectly, the remaining functions of an office which, by the concurrent testimony of all who have ever experienced or studied its conditions, it is beyond the powers of any mortal man—however great his powers—however indefatigable his energy,—satisfactorily to execute in all its parts.

You will probably be no stranger to the able and elaborate speech of one of the most distinguished of our living legal authorities—Lord Langdale—on this subject, in Parliament, in the month of June, 1836. I will venture here to recall to your recollection one or two of its passages in support of the

statements I have made. Lord Langdale uses these words :—

“The extent, variety, and importance of the business to be transacted, is more than sufficient to distract and overpower the most vigorous attention, if attempted to be conscientiously applied. In this state of things, what has been found most pressing has been attended to ; the rest has been neglected, and the consequences have been, delay of justice in the Court of Chancery, delay of justice in this House, the neglect of many of those great duties which consist in the superintendence of the law, and the administration of justice ; and the transfer of others of those duties to the office of the Secretary of State for the Home Department.”—*Parl. Deb. on Appellate Jurisdiction, June 23, 1836.*

These, then, are the conclusions of one of the most eminent and experienced members of that profession from which the highest legal dignitaries must be drawn : and it cannot be too much to conclude with him, that to relieve on the one hand a great office, so overwhelmed with duties as to be beyond the compass of mortal powers ; and on the other to withdraw from a laborious department one branch of its present functions, not originally or necessarily connected with it, but undesignedly superadded by the force of necessity to its legitimate operations—would be, if a practicable, an useful, and desirable consummation. The eminent authority whom I have cited would establish a new, or revive an ancient, officer of State, who should bear the responsibility of this branch of public affairs under the title of Lord Keeper ; leaving to the

Lord Chancellor the direct duties of Judge in his own Court, and disconnecting him from the political and parliamentary avocations to which he is now subject. I shall not of course take upon myself to pronounce upon the merits of this or of any other plan for securing the efficient discharge of some of the most important functions in the public polity of these realms, which require, and I trust will receive, the unbiassed and deliberate consideration of all those who are most fitted by peculiar qualifications for the task. I am not ignorant that it is a matter not to be lightly dealt with, and one which involves a variety of difficulties, professional as well as general. But I know of no reason to suppose that they are insurmountable. The distinguished Judge whom I have named does not stand alone as the advocate of such recommendations. Other great names, linked with high powers of mind and authoritative station, have also testified to the value and importance of some such arrangements—well considered and cautiously adopted; and I cannot for a moment doubt that under whatsoever title, whether that of “Lord Keeper,” “Minister of Justice,” “Secretary of State for Judicial Affairs,” or any other designation, the severance of the judicial from the political functions of the Lord Chancellor, and the appointment of an officer whose special charge it should be to superintend the judicial branch of internal administration, and at the same time, if possible to watch in

some degree over the machinery of our complicated and multifarious legislation, would be in consonance with the wishes and the convictions of an immense majority of the community at large.

Let us apply what has been said to the case before us. We have a mass of business to be transferred from Ireland to England in consequence of the suppression of the Irish Executive. We wish (for I may surely assume this in the absence of any insuperable obstacle) to place Irish affairs on the same footing, and to commit them to the same hands, as those of the other members of this united realm. We are impeded in this operation by the existing pressure of duties upon the department to which they would most naturally and obviously be referred. We at the same time find that another great office is so overburdened as to render it a matter of necessity that it should be relieved; and it so happens that a large portion of the load now imposed upon both these offices is of a nature which would admit of its being reasonably and advantageously lodged in a third quarter, which might be specially charged with its responsibilities. Provide then for the relief at once of these branches of the National service,—for the more efficient discharge of great public duties,—and for the more complete and intimate consummation of international union. Take from the Home Secretary all the legal labour of his office; withdraw from the Chancellor those administrative functions which embarrass his duties

on the bench ; let the new officer whom it is proposed to create superintend that class of affairs on both sides of St. George's Channel ; and let the internal Government of the United Kingdom in matters of general import, whether in England, Scotland, or Ireland, be committed without distinction to the same hand, and be directed by the same head. I cannot but believe that such an arrangement would conduce materially to the advancement of the public interests ; and that it would be a more reasonable as well as more acceptable arrangement, than the establishment of a fourth Secretary of State, charged with the separate administration of a certain class of affairs, for no better reason than simply that they are Irish.

It is quite true, as may be observed by those who are acquainted with the detailed construction of the Bill for the abolition of the Lord Lieutenantcy of Ireland, that it contains nothing absolutely irreconcilable with the adoption of a scheme such as I have ventured to suggest. The Bill provides, in the first place, for the distribution of the functions and authority of the Lord Lieutenant and his Executive between Her Majesty and the Privy Council in Ireland ; and it then transfers the duties of administration to "one of Her Majesty's principal Secretaries of State," recognizing at the same time the probable necessity for the appointment of a fourth. There is nothing certainly in these provisions incompatible with the arrangements above

explained ; and nothing which would operate to restrict future discretion upon it, except that the new functionary must be entitled "Secretary of State." But this seeming latitude of legislation must not be taken as really leaving the main point undetermined. As you, and all others who have even looked into these matters, are well aware, the law makes no distinction between the Departments of the Secretaries of State ; which have, in point of fact, been modified at various times according to the convenience of the public service, while the office itself is, in all cases, of the same legal authority and rank. The form adopted in the Bill was therefore the only regular and recognised method of effecting the arrangement proposed by Her Majesty's Government ; and in order to ascertain its true practical import, we must resort to the commentary offered by the explanatory statement of the Prime Minister, to which I referred at the outset, and which I am therefore justified in assuming as the basis of the present discussion.

Before that statement was made, and when the first notice was given of any intention to remodel the Irish Government, it struck me forcibly that such a measure presented an opportunity of singular aptitude and convenience for the accomplishment of some more satisfactory organization of the nature of that which I have endeavoured to explain ; and that advantage should be taken of it accordingly, with a view not only to the better distribution and

discharge of public duties, but also to the true policy to be observed in effecting the immediate change itself. But these considerations have since acquired double weight and significance from the present position of the office of Lord Chancellor, and the recent intimation that it should be made the subject of a careful revision, in order, if possible, to bring it within the limits of possible execution, and to adapt its functions to the exigencies of modern Government. On the 28th of May Lord John Russell is reported to have used these words:—

“I have to state that as soon as the Lord Chancellor shall have given his judgment on various cases which have come under his consideration, he will feel himself called upon to resign the Great Seal. I have farther to state that, in filling up the office I shall have it understood that any person taking the Great Seal shall have to take it subject to any regulation which Parliament may adopt on the report of the Committee.” “With regard to the farther question, as to the separation of the judicial and political functions of the Lord Chancellor, I can only say that it is a subject which has engaged the attention of Her Majesty’s Government. It is however a question of very considerable difficulty. I have no doubt myself that this object is one very desirable to attain, and I trust we may be able to propose a measure to Parliament on the subject. But considering the nature of the office, considering how closely connected it has been with the political history of this country—how much it has been connected with our political administration, and with the performance of the highest functions of the state, it is a subject on which I should be loth to propose any measure without very serious consideration.”—*Times*, May 29, 1836.

The announcement is one of an importance which can scarcely be over-rated. It is one which I firmly

believe will have been heard with satisfaction by every reflecting person in the kingdom ; and it is one to which we may be permitted anxiously to hope that the ultimate performance may correspond. But for my present purpose, it is enough to shew that the promise has been made ; and to point out that a juncture, when, by a rare concurrence of circumstances, an announced change in the whole framework of one great department of internal administration, coincides with the promised revision of the highest judicial office in the State, is one which forcibly suggests some arrangement for the former as well as the latter object, more satisfactory than the bare establishment of an Irish Secretary of State in London ; more effectually marking those distinctions which it is our professed policy as far as possible to forget ; and neither applying nor providing one remedy or improvement, beyond the suppression of an obsolete pageantry, and the convenient migration of a few scores of clerks.

I have made a larger demand upon your attention than I intended when I first sat down. I trust, however, that I have not burdened it by anything that is materially irrelevant or superfluous to my argument. If I have, your discrimination will enable you speedily to reject it, and to extract that which I presume to think may, in spite of any such faults of mine, be found deserving of your notice and of that of the House of Commons, before it passes the Bill at present before it. I now commend

the subject to your superior judgment. Even the highest authorities may sometimes receive suggestions that are new to them, from an unexpected quarter; and though I can hardly flatter myself that I shall have in this instance altogether anticipated your own reflections upon this important subject, I still venture to hope that you will not deem what I have said wholly useless; and that from other readers, if with such I should be honoured, I may have succeeded in bespeaking more consideration of it than it would have otherwise received.

I remain, dear Sir James,

Yours very faithfully,

WHARNCLIFFE.

London, June, 1850.

THE END.

JAMES RIDGWAY, 169, PICCADILLY.

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